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No. 80-1509

In The

Supreme Court of the United States

October Term, 1980

WOMENS SERVICES, P.C., et al.,
Appellees,

vs.

CHARLES THONE, Governor of the State of Nebraska, et al.,
Appellants.

LADIES CENTER, NEBRASKA, INC., et al.,
Appellees,

vs.

CHARLES THONE, Governor of the State of Nebraska, et al.,
Appellants.

WOMENS SERVICES, P.C., et al.,
Appellees,

vs.

CHARLES THONE, Governor of the State of Nebraska, et al.,
Appellants.

On Appeal from the United States Court of Appeals for the Eighth Circuit

MOTION OF LADIES CENTER, NEBRASKA, INC. AND M. JOHN EPP, M.D. TO AFFIRM

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TABLE OF CONTENTS

Pages

Motion to Affirm 1

Argument in Support of Summary Affirmance 2

Conclusion 14

Appendix A

Complaint, *Ladies Center, Nebraska, Inc., et al. v. Charles Thone, Governor of the State of Nebraska, et al.*, United States District Court for the District of Nebraska, CV 79-L-100 ..... App. 1

Appendix B

Portion of Memorandum and Order re: Preliminary Injunction in *Ladies Center, Nebraska, Inc., et al. v. Charles Thone, Governor of the State of Nebraska, et al., supra* ..... App. 15

Appendix C

Portion of Order on Pre-trial Conference in *Ladies Center, Nebraska, Inc., et al. v. Charles Thone, Governor of the State of Nebraska, et al., supra* ..... App. 18

Appendix D

Portions of testimony and portions of Exhibit "2" received in evidence by the District Court during the trial of *Ladies Center, Nebraska, Inc., et al. v. Charles Thone, Governor of the State of Nebraska, et al., supra* ..... App. 20

TA LE OF AUTHORITIES

CASES CITED

Pages

Baird v. Bellotti, 393 F. Supp. 897 (U. S. D. C. Mass 1975), vacated and remanded on other grounds, *sub nom.* 8

Bellotti v. Baird, 428 U. S. 132 (1976) 8

Bee Publishing Co. v. State, 107 Neb. 74 (1921) 8

Carey v. Population Services, International, 431 U. S. 678 (1977) 12

Doe v. Bolton, 410 U. S. 179 (1973) 5

Fox Valley Reproductive Health Care Center, Inc. v. Arft., 446 F. Supp. 1072 (U. S. D. C. E. D. Wisc. 1978) 12

Friendship Medical Center, Ltd. v. Chicago Board of Health, 505 F. 2d 1141 (6th Cir. 1974) 12

Mobile Women's Med. Clinic v. Bd. of Com'rs., 426 F. Supp. 33 (U. S. D. C. S. D. Ala. 1977) 10

People v. Travers, 124 Cal. Rptr. 728 (1975) 8

Planned Parenthood v. Citizens for Com. Action, 558 F. 2d 861 (8th Cir. 1977) 12

State v. Foster, 196 Neb. 332 (1976) 7

State v. Norman, 193 Neb. 719 (1975) 7

STATUTES CITED

Mass. Gen. Laws, Ann., ch. 112 §§ 12L, 12Q, 12S, 12T, 12U 9

STATUTES CITED—Continued

	Pages
Neb. Rev. Stat. § 28-109 (16)	7
Neb. Rev. Stat. §§ 28-333, 28-334, 28-326 (8), 28-327, 28-328, 28-343, 28-344	3
Neb. Rev. Stat. § 28-206 (Supp. 1978)	7
Neb. Rev. Stat. § 28-337 (Supp. 1978)	10
Neb. Rev. Stat. § 28-327	10
Neb. Rev. Stat. § 28-343	10
Neb. Rev. Stat. § 28-344	10
42 U. S. C. § 1988	13

RULE CITED

F. R. C. P. Rule 801 (d) (2)	6

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MOTION OF LADIES CENTER, NEBRASKA, INC. AND M. JOHN EPP, M.D. TO AFFIRM

MOTION TO AFFIRM

Appellees M. John Epp, M. D., and Ladies Center, Nebraska, Inc. (herein L. C. N.), pursuant to Rule 16, Rules of the Supreme Court of the United States, move that the final judgment of the United States District Court for the District of Nebraska dated February 4, 1980 and affirmed

by the United States Court of Appeals for the Eighth Circuit on December 8, 1980 be affirmed for the reason that the questions are so unsubstantial as not to warrant further argument.

ARGUMENT IN SUPPORT OF SUMMARY AFFIRMANCE

I.

Preliminary Statement

These appellees adopt by reference the argument of appellees Women's Services, P. C., G. William Orr, M. D. and Elizabeth F. presented in support of their motions to affirm. Additionally, appellee L. C. N. will present argument in support of summary affirmance of the determination by the courts below that it had standing to challenge the constitutionality of the statutes involved in this appeal.

II.

The Question of Whether Ladies Center, Nebraska, Inc. Has Standing Does Not Warrant Further Argument

---

A.

STATEMENT OF FACTS

The following facts are relevant to a determination by this Court of whether this appellee has standing to assert

the unconstitutionality of NEB. REV. STAT., sections 28-333, 28-334, 28-326 (8), 28-327, 28-328, 28-343 and 28-344 (herein called the "challenged sections").

In its complaint, L. C. N. alleges that it is a corporation furnishing facilities and support staff to physicians for the performance of family planning, pregnancy tests, birth control, termination of pregnancy through abortion and related gynecological services (App. A, p. 3). The district court certified as a class of plaintiffs those organizations which offer and provide facilities and support staff to physicians who perform abortions and designated L. C. N. as class representative (App. B, pp. 16-17).

The physical facilities furnished by Ladies Center include the building in which physicians perform the medical procedures and all necessary medical and non-medical equipment.

A description of the personnel provided by L. C. N., the required qualifications and the duties of each staff member, is contained in L. C. N.'s Procedure Manual received in evidence as Exhibit 2 (App. D, pp. 30, et seq.).

Although all medical functions of the clinic are under the supervision and control of the medical director, the members of the staff are employees of L. C. N. Neither the medical director, nor any physician, is an employee of L. C. N. (App. D, pp. 21, 29-30).

L. C. N.'s current medical director, Dr. M. John Epp, testified that he has no connection with scheduling of patients for abortion procedures. All scheduling is done by employees of L. C. N. The procedure manual reveals that patient scheduling is a job duty of the telephone appointment assistant (App. D, pp. 22, 29-30, 34).

Informed consent for the abortion is routinely obtained by employees of L. C. N. The clinic director is the party who imparts the informed consent information to the patients (App. D, p. 26).

The counselors employed by L. C. N. explains the abortion procedures and complications which may result and the alternatives to abortion (App. D, pp. 27, 45-52).

The following are among the services furnished and the personnel provided by L. C. N. to physicians performing abortions within the facility:

(1) Clerical and secretarial personnel who schedule and admit patients, assist in the completion of all necessary pre-procedure forms, and prepare the abortion report forms required by the State (App. D, pp. 23, 33, 34).

(2) Maintain complete medical records for all patients (App. D, pp. 32, 33).

(3) Nursing staff to assist physicians during abortion procedures and pre- and post-operative patient care (App. D, pp. 35-37, 55, 56).

(4) Patient screening to determine eligibility for abortion procedures and referral of any problem patient to the physician for pre-operative counseling or examination (App. D, pp. 40, 53).

(5) Necessary pre-operative laboratory work and lab technician to complete laboratory tests (App. D, p. 32).

The amount of fees charged, and the manner of payment, is determined by L. C. N. The clinic has a policy that it will provide free abortion services to certain select patients.

Dr. Epp is an independent contractor, performing abortions on a fee for service basis, and has no ownership interest.

Not only does the clinic fee, when one is charged, include the abortion itself, but it also includes all laboratory tests and post-operative care (App. D, pp. 34, 41, 57).

B.

ARGUMENT

With respect to standing to challenge statutes regulating the performance of abortions, this Court has held that the existence of a real potential for personal detriment to a plaintiff is all that is necessary to confer standing upon the party threatened with the detriment and that justiciability exists notwithstanding that no actual detriment was suffered prior to the institution of the action. The threat of criminal prosecution is sufficient to create the requisite potential for personal detriment. *Doe v. Bolton*, 410 U. S. 179 (1973).

The question which must be answered is whether the challenged statutes operate as directly against the class of appellees represented by L. C. N. as they do against the

physician-appellees, for, if they do, then L. C. N. is in no different position than the physicians and has the requisite standing to attack the validity of the legislative enactment.

Appellants challenge the district court's finding "That Ladies Center satisfies the Article III dimension of standing is beyond serious dispute" (Appellants' App. A, p. 4), and argue that "It is undisputed that the appellee Ladies Center, Nebraska, Inc., cannot be prosecuted directly for violations of the challenged statutes since those statutes are directed at licensed physicians and not persons who provide administrative assistance to the physicians who performs abortions." (Appellants' Jurisdictional Statement, p. 17). This argument completely mis states the facts and the law.

In their brief opposing the granting of a preliminary injunction, appellants made the following statements: "defendants admit without qualification that the statutes in question were enacted and will be enforced in the interests of unborn children from the moment of conception; defendants again admit without qualification that the questioned statutes do impose criminal penalties in a select area of medicine but for good cause." These statements were received in evidence during trial, without objection, as F. R. C. P. Rule 801 (d) (2) admissions by defendants.

The district court's Order on Pre-trial Conference contained the following statement of fact that was uncontroverted by appellants:

> "The plaintiff Ladies Center, Nebraska, Inc. is a Florida Corporation authorized to do business in the State of Nebraska which offers facilities and support

> staff to physicians for the performance of family planning, pregnancy tests, birth control, termination of pregnancy through abortion and related gynecological services. The challenged sections subject physicians who perform abortions and facilities which provide supportive services to such physicians to regulation and criminal prosecution should they fail to comply with any of the challenged sections." (App. C, p. 19).

The Nebraska Criminal Code is designed to reach not only individuals, but also corporations. R. S. Supp., Section 28-109 (16).

R. S. Supp., 1978, Section 28-206 provides: "A person who aids, abets, procures, or causes another to commit any offense may be prosecuted and punished as if he were the principal offender."

State v. Norman, 193 Neb. 719 (1975) holds that a party may be convicted as an aider and abettor even though he is personally incapable of committing the criminal offense.

In order to be convicted as an aider and abettor it is not necessary that the principal offender be charged, but only that the party prosecuted under section 28-206 has, in some way, associated himself with, or participated in, the criminal venture.

State v. Foster, 196 Neb. 332, 336 (1976) holds:

> ". . . The law is well established under the section that conviction of the principal is not necessary for conviction of an aider and abettor and that, in fact, it is not even necessary that the identity of the principal be established."

An employer or principal may be held criminally liable for the acts of his employee or agent particularly where the conduct of the agent violates a statute which, such as

the challenged sections, requires no specific criminal intent, or criminal negligence.

Bee Publishing Co. v. State, 107 Neb. 74 (1921) involved a prosecution for criminal contempt by the publication of a newspaper article. Defendants were the reporter who wrote the article, the editor of the newspaper and its corporate owner. The conviction of the owner was affirmed.

> "In the exercise of the police power it has frequently been held permissible to inflict punishment upon a person for the commission of an unlawful act by his agent, even though the principal was unaware that the act was being committed, and in some instances punishment has been imposed when the agent had been expressly directed to refrain from the commission of the proscribed act. An illustration, now less familiar than formerly, is seen in the cases wherein licensed vendors of intoxicating liquors were convicted for the unlawful sale of intoxicated persons, notwithstanding the fact that the unlawful act was committed by the owner's barkeeper and without the knowledge of his employer and in disregard of his express instructions." 107 Neb. at 80.

See also *People v. Travers,* 124 Cal. Rptr. 728 (1975).

Squarely on point on the issue of standing is *Baird v. Bellotti,* 393 F. Supp. 847 (U. S. D. C. Mass. 1975), vacated and remanded on other grounds *sub nom., Bellotti v. Baird,* 428 U. S. 132 (1976).

In that case, one of the plaintiffs provided precisely the same services as does L. C. N. Parents Aid Society, Inc., was a non-profit corporation providing abortions through its medical director and supporting personnel. The physician-medical director worked at the facility two days per week and performed abortions on a fee basis.

The statute under attack provided in relevant part (all reference to Mass. Gen. Laws, Ann., ch. 112):

> Section 12L. ". . . [N]o abortion may be performed except by a physician. . . ."
>
> Section 12Q. ". . . [N]o abortion may be performed . . . unless the written informed consent of the proper person or persons has been delivered to the physician performing the abortion as set forth in section twelve S; . . ."
>
> Section 12S. "If the mother is less than eighteen years of age and has not been married, the consent of both the mother and her parents is required. . . . Such form shall be signed by the proper person or persons and given to the physician performing the abortion. . . ."
>
> Section 12T. ". . . Any person who willfully violates the provisions of section twelve Q . . . shall be punished by a fine of not less than one hundred dollars nor more than two thousand dollars."
>
> Section 12U. ". . . [A]ny person whose consent is required . . . pursuant to section twelve S . . . may petition . . . for an order enjoining the performance of any abortion that may be performed contrary to the provisions of section twelve L to twelve T, inclusive."

The conduct which mandated the imposition of criminal sanctions was the performance of an abortion by a physician without first having the executed consent delivered to him. Nevertheless, the clinic was held to have standing.

> ". . . The Society's standing is conferred not only by its direct subjection to criminal liability but also by the recognition that even general enforcement of the statute against physicians alone would seriously interfere with its ongoing activities. *Doe v. Bolton*, 1973, 410 U. S. 179, 188, 93 S. Ct. 739, 35 L. Ed. 2d 201; *Truax v. Raich*, 1915, 239 U. S. 33, 38-39, 36 S. Ct. 7, 60 L. Ed. 131." 393 F. Supp. at 851.

The provision of R. S. Supp. 1978, section 28-337 that "no . . . facility shall be required to admit any patient for the purpose of performing an abortion nor required to allow the performance of an abortion therein. . . ." acknowledges that L. C. N. has the authority to control whether abortions will, or will not, be performed within its facility.

The State, in reliance upon this statute, could clearly prosecute this plaintiff as an aider and abettor if it permitted any abortion to proceed with the knowledge that there had been non-compliance by the physician with any requirement of the challenged sections.

The physician may delegate to another the giving of the informed consent advice (note original Neb. Rev. Stat., § 28-327 requiring *physician* to inform). The party to whom this duty is delegated is in a far better position than the physician to know whether the advice required by the statute had in fact been given, whether 48 hours had, in fact passed between expression of informed consent and performance of the abortion, whether the statement of consent had, in fact, been "voluntarily" entered into by the woman, and whether the woman was a minor under the age of 18.

Section 28-343 does not specify who has the duty to "send" the completed report form to the Department of Health. Section 28-344 imposes criminal liability upon *any* person disclosing information without authorization.

The challenged sections operate to the detriment of this plaintiff in ways other than subjecting it to criminal prosecution.

In *Mobile Women's Med. Clinic v. Bd. of Com'rs.*, 426 F. Supp. 33 (U. S. D. C. S. D. Ala. 1977), plaintiff clinic provided first trimester abortions. The medical director

was responsible for the policies and procedures of the clinic and performed the abortion procedures. The ordinance not only regulated clinic operation, but also regulated physicians who performed abortions. The Court held the clinic to have standing to challenge the entire ordinance.

> ". . . Standing is conferred upon Mobile Women's Medical Clinic and upon Dr. Robinson because of the financial interest of those parties. *Singleton v. Wulff*, 428 U. S. 106, 96 S. Ct. 2868, 49 L. Ed. 2d 826 (1976)."

Appellants argue that dismissal of L. C. N. should be ordered because the presence of the physicians is all that is required to enable the Court to resolve all issues raised herein. This argument is without merit.

The standing of a particular plaintiff is not dependent upon whether any other plaintiff does nor does not have standing. The standing of each party must rest upon the potential for detriment to that party.

In this case the issue is not only whether the challenged sections subject this plaintiff to the threat of criminal prosecution and will interfere with its continued operation, which they will, but also whether the challenged sections impinge upon the right of the woman, at least during the first trimester of pregnancy, to be free from unwarranted governmental regulation which affects the abortion decision.

The Court, in considering the evidence before it, must draw the inference that L. C. N. would, in all probability, find it difficult, if not impossible, to continue to furnish facilities and support staff to physicians if it is threatened with criminal prosecution and must contend with state interference with its method of operation. Further, a physi-

cian would find it impossible to provide abortion services without the facilities and other services provided by this plaintiff. These factors would unquestionably burden the abortion decision of the woman.

Carey v. Population Services, International, 431 U. S. 678, 688 (1977) holds:

> ". . . [D]ecisions after *Roe v. Wade* . . . held unconstitutional statutes that did not prohibit abortions outright but limited a variety of ways a woman's access to them. . . . The significance of these cases is that they establish that the same test must be applied to state regulations that burden an individual's right to decide to prevent conception or terminate pregnancy by substantially limiting access to the means of effectuating that decision as is applied to state statutes that prohibit the decision entirely. . . ."

Standing is also conferred by reason of the fact that Ladies Center asserts not only its own right, but also those of its patients (App. A, pp. 8, 10-12).

Planned Parenthood v. Citizens for Com. Action, 558 F. 2d 861 (8th Cir. 1977) permitted a clinic to assert the constitutional claims of its patients, recognizing that:

> ". . . There is an intimate relationship between Planned Parenthood and its patients and the right of a pregnant woman is 'inextricably bound up' with the ability of Planned Parenthood to provide one. . . ." 558 F. 2d at 865, fn. 3.

In accord are *Friendship Medical Center, Ltd. v. Chicago Board of Health*, 505 F. 2d 1141 (6th Cir. 1974) and *Fox Valley Reproductive Health Care Center, Inc. v. Arft.*, 446 F. Supp. 1072, 1074 (U. S. D. C. E. D. Wis.).

Appellants complain that the presence of L. C. N. unnecessarily added to the cost of this case in that it was

awarded attorney's fees and costs pursuant to 42 U. S. C. § 1988. This is a frivolous basis upon which to ask this Court to abandon well established rules of standing and justiciability.

An examination of the attorney's fee award (Appellants' App. F, p. 86) shows that judgment was rendered jointly in favor of this appellee and appellee M. John Epp, M. D. Appellants have not challenged the standing of the physician and dismissal of L. C. N. could not conceivably affect the award of fees as to him.

The district court, by order entered April 20, 1979, some 4 months prior to commencement of trial, consolidated the case in which L. C. N. was a plaintiff with a related case previously filed by appellees Womens Services, P. C., et al. (App. B, p. 16).

L. C. N.'s complaint put appellants on notice that it would seek a section 1988 fee award in the event it prevailed in its attack on the challenged sections (App. A, p. 14).

Had appellants really believed that the presence of L. C. N. was unnecessary to a determination of the issues in the case and had they been truly concerned that its presence would add unnecessary costs, they had ample opportunity to object to appellant's participation in the consolidated action, either by objecting to consolidation or by moving to sever L. C. N.'s case from the cases of Womens Services and to request the district court hold its suit in abeyance until the latter's case had been decided. Not only did they not do this, they in fact consented to the consolidation (App. B, p. 16).

Appellants also did not avail themselves of the opportunity to make their present argument before the district

court by way of objection to the award of any fee to L. C. N. or as a reason for reducing the amount of any fee awarded.

Having failed to take any action to protect themselves from what they now characterize as an "exposure" to "excessive attorney fee awards", appellants have forfeited any right to now argue L. C. N.'s lack of standing on this basis.

Appellants' contention that L. C. N. was an "unneeded" party ignores the fact that it was designated as a class representative of a class which could not have been represented by any of the other appellees and therefore acted to protect an interest entirely separate and distinct from the interests of the other appellees.

CONCLUSION

For the reasons above stated, L. C. N. requests that the Supreme Court summarily affirm the decisions of the district and circuit courts finding that Ladies Center, Nebraska, Inc. had standing to challenge the constitutionality of the statutes in question.

Respectfully submitted,

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APPENDIX TO MOTION TO AFFIRM

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

Civil Action No. 79-L-100

LADIES CENTER, NEBRASKA, INC., A Corporation: M. JOHN EPP, M.D.; and, BETTY ROE, By Her Next Friend, BARBARA GAITHER,

Plaintiffs,

vs.

CHARLES THONE, GOVERNOR OF THE STATE OF NEBRASKA; PAUL L. DOUGLAS, ATTORNEY GENERAL FOR THE STATE OF NEBRASKA; and, DONALD L. KNOWLES, COUNTY ATTORNEY FOR THE COUNTY OF DOUGLAS, STATE OF NEBRASKA,

Defendants.

VERIFIED COMPLAINT

COME NOW the plaintiffs Ladies Center, Nebraska, Inc., a Florida corporation qualified to do business in the State of Nebraska; M. John Epp, M.D.; and, Betty Roe, by her next friend, Barbara Gaither, individually and on behalf of all others similarly situated, and for their complaint against defendants Charles Thone, Governor of the State of Nebraska; Paul L. Douglas, Attorney General for the State of Nebraska; and Donald L. Knowles, County Attorney for Douglas County, Nebraska, and all others similarly situated, their agents and successors, state as follows:

PRELIMINARY STATEMENT

1. This is a civil rights action brought under 42 U. S. C. Section 1983 and the United States Constitution by a physician, a Florida corporation authorized to do business in Nebraska which offers facilities and support staff to such physician for the performance of family planning, pregnancy tests, birth control, termination of pregnancy through abortion and related gynecological services, and a pregnant woman desiring an abortion, asserting the rights of themselves and of the patients of said physician, against certain officials of the State of Nebraska responsible for the enforcement and administration of the Nebraska Criminal Code, Sections 28-325 to 28-334, inclusive, 28-336 and 28-342 through 345 inclusive enacted by the 1977 Nebraska Legislature as Legislative Bill 38, and subsequently amended by the 1979 Nebraska Legislature as Legislative Bill 316. A copy of said sections and amendments is attached as Exhibit A and will sometimes herein be referred to as the challenged sections. Plaintiffs seek declaratory and injunctive relief.

2. The challenged sections became effective on March 22, 1979, and will be operative at 12:01 A.M., April 21, 1979. On their face, and as applied to the plaintiffs and all others similarly situated, the challenged sections restrict the performance of abortions and subject physicians who perform abortions and facilities which provide supportive services to such physicians, to regulation and criminal prosecution should they fail to comply with any of the challenged sections in violation of the rights of the plain-

tiffs as secured by the First, Fourth, Fifth, Ninth and Fourteenth Amendments to the United States Constitution.

3. Plaintiffs seek declaratory and injunctive relief. The basis of the action is that the challenged sections violate rights guaranteed by the First, Fourth, Fifth, Ninth and Fourteenth Amendments to the United States Constitution.

JURISDICTION

4. This Court has jurisdiction of this action by virtue of 28 U. S. C. Section 1343 (3) and 1343 (4), authorizing jurisdiction of claims brought under 42 U. S. C. Section 1983 to enforce rights guaranteed by the United States Constitution. This Court also has jurisdiction of this action pursuant to 28 U. S. C. Section 1331 as the claims arise under the United States Constitution, and the matter and controversy exceeds $10,000, exclusive of costs and interest. This action also seeks declaratory judgment pursuant to 28 U. S. C. Section 2201 to Section 2202.

PARTIES

5. Plaintiff, Ladies Center, Nebraska, Inc., is a corporation organized under the laws of the State of Florida and authorized to do business in the State of Nebraska. Ladies Center, Nebraska, Inc. offers facilities and support staff to plaintiff M. John Epp, M.D. for the furnishing of services by said physician to women in the area of family planning, pregnancy tests, birth control, termination of pregnancy through abortion and related gynecological services.

6. Plaintiff M. John Epp, M. D., is a citizen of the United States residing in Lincoln, Lancaster County, Nebraska, and is a physician licensed to practice medicine in the State of Nebraska. Plaintiff Epp is actively engaged in the practice of emergency medicine in Lincoln, Lancaster County, Nebraska, and is actively engaged in the practice of obstetrics and gynecology in Omaha, Douglas County, Nebraska. He is a member of the attending staff at Bryan Memorial Hospital and serves on the courtesy staff of St. Elizabeth's Hospital and Lincoln General Hospital. He is a member of the American Medical Association, the Nebraska State Medical Society, Lancaster County Medical Society, American College of Emergency Physicians and the Nebraska Chapter of the American College of Emergency Physicians.

7. Plaintiff Betty Roe is a citizen of the United States residing in Lincoln, Lancaster County, Nebraska. She is eighteen years of age and unemployed. She is a single parent of one infant child who does not reside with her. Betty Roe is nine to ten weeks pregnant and desires an abortion. Betty Roe brings this action through her next friend on her own behalf and on behalf of all those similarly situated.

8. Barbara Gaither is a citizen of the United States residing in Lincoln, Lancaster County, Nebraska, and brings this action as the next friend of Betty Roe pursuant to Rule 17(c) of the Federal Rules of Civil Procedure and R. R. S. 1943, Section 25-307.

9. Defendant, Charles Thone, is the Governor of the State of Nebraska. He is the Chief Executive Officer of the State of Nebraska. As such, he is responsible for the

execution of the laws of the State, including the challenged sections. Unless restrained by order of this Court, defendant Thone will perform his duties to insure that the challenged sections are executed.

10. Defendant, Paul L. Douglas, is the Attorney General of the State of Nebraska. As such, he is responsible for the enforcement of the challenged sections. Unless restrained by order of this Court, the defendant Douglas will perform his duties to insure that the challenged sections are enforced.

11. Defendant, Donald L. Knowles, is the County Attorney of Douglas County, Nebraska. As such, he is responsible for the enforcement of the challenged sections throughout Douglas County, Nebraska. Unless restrained by order of this Court, defendant Knowles will perform his duties to insure that the challenged sections are enforced.

CLASS ACTION ALLEGATIONS

12. In the course of his ordinary and usual medical practice, plaintiff Epp receives requests from pregnant patients, including minor patients under the age of eighteen years, desiring pregnancy terminations to be performed by qualified physicians under proper medical conditions. Plaintiff Epp presently offers, provides, renders and performs pregnancy termination procedures for women, including minors under the age of eighteen years, as part of his medical practice and intends to continue to provide such medical services. Plaintiff Epp brings this action pursuant to Rule 23(a), (b)(1)(A) and (b)(2) of the Federal Rules of Civil Procedure on behalf of all duly

licensed physicians and surgeons presently performing or desiring to perform pregnancy termination procedures for patients in the State of Nebraska and on behalf of all patients desiring pregnancy terminations within the State of Nebraska. The class is so numerous that the joinder of all such persons is impracticable. There are questions of law and fact common to the class. The claims of the representative party are typical of the class. The representative party will fairly and adequately protect the interests of the class, and the parties opposing the class are acting on grounds generally applicable to the class, thereby making appropriate declaratory and injunctive relief with respect to the class as a whole. Prosecution of separate actions by or against individual members of the class could create a risk of inconsistent or varying adjudication with respect to individual members of the class which would establish incompatible standards of conduct under the Nebraska Criminal Code challenged sections.

13. Plaintiff Ladies Center, Nebraska, Inc. is a corporation organized under the laws of the State of Florida and authorized to do business in the State of Nebraska. Ladies Center, Nebraska, Inc. offers facilities and support staff to plaintiff M. John Epp., M. D. for the furnishing of services by said physician to women in the area of family planning, pregnancy tests, birth control, termination of pregnancy through abortion and related gynecological services. Plaintiff Ladies Center, Nebraska, Inc. brings this action pursuant to Rule 23(a)(b)(1)(A) and (b)(2) of the Federal Rules of Civil Procedure on behalf of all organizations, whether corporations, proprietorships, partnerships or unincorporated associations, which offer and provide facilities and support staff to physicians for the

furnishing of services by said physicians to women in the area of family planning, pregnancy tests, birth control, termination of pregnancy through abortion and related gynecological services in the State of Nebraska. The class is so numerous that the joinder of all such organizations is impracticable. There are questions of law and fact common to the class. The claims of the representative party are typical of the class. The representative party will fairly and adequately protect the interests of the class, and the parties opposing the class are acting on grounds generally applicable to the class, thereby making appropriate declaratory and injunctive relief with respect to the class as a whole. Prosecution of separate actions by or against individual members of the class could create a risk of inconsistent or varying adjudication with respect to individual members of the class which would establish incompatible standards of conduct under the Nebraska Criminal Code challenged sections.

14. Betty Roe brings this action through her next friend pursuant to Rule 23(a), (b)(1)(A) and (b)(2) of the Federal Rules of Civil Procedure on behalf of all pregnant women in the State of Nebraska who desire to terminate their pregnancy by abortion. The class is so numerous that the joinder of all such persons is impracticable. There are questions of law and fact common to the class. The claims of the representative party are typical of the class. The representative party will fairly and adequately protect the interests of the class, and the parties opposing the class are acting on grounds generally applicable to the class, thereby making appropriate declaratory and injunctive relief with respect to the class as a whole. Prosecution of separate actions by or against individual mem-

bers of the class could create a risk of inconsistent or varying adjudication with respect to individual members of the class.

15. Defendant Knowles is sued in his capacity as County Attorney of Douglas County, Nebraska, and as the representative of the class of all county attorneys of the various counties in the State of Nebraska pursuant to Rule 23(a), (b)(1)(A) and (b)(2) of the Federal Rules of Civil Procedure. Said defendant and class of county attorneys is so numerous that joinder of all members is impracticable. There exists substantial questions of law and fact common to the defendant class and the defenses of defendant Knowles are typical of the defenses of the defendant class. Defendant Knowles will fairly and adequately represent the interests of the defendant class of county attorneys. The prosecution of separate actions against individual members of the defendant class could create a risk of inconsistent or varying adjudication with respect to individual members of the defendant class which would establish incompatible standards of conduct for physicians presently performing or desiring to perform abortions in Nebraska.

16. The questions of law and fact in common to the class are: (1) Whether the challenged sections constitute an unconstitutional violation of a woman's fundamental right to receive nad a physician's right to perform, first and second trimester abortions, with no compelling state justification; (2) Whether the challenged sections place restrictions on women who seek abortions and physicians who perform abortions while not placing a similar restriction for other surgical procedures, including childbirth, creates an invidious classification and violates equal pro-

tection; (3) Whether the challenged sections whose purpose is to prevent the performance of abortions is the enactment into law of one religious belief concerning abortion in violation of the religious freedom clause of the First Amendment to the United States Constitution; (4) Whether the challenged sections infringe upon the rights of physicians to practice medicine in violation of due process of law; (5) Whether the challenged sections infringe upon the right of physicians to give, and their patients to receive, appropriate medical treatment and advice pertaining to the decision whether to terminate a pregnancy in violation of the First, Ninth and Fourteenth Amendments to the United States Constitution; (6) Whether the challenged sections are vague and/or over-broad; (7) Whether the challenged sections violate equal protection by regulating the performance of abortions while not regulating the performance of any other medical procedure; (8) Whether the challenged sections deprive physicians and their women patients of their rights to privacy in the physician-patient relationship, as protected by the First, Fourth, Fifth, Ninth and Fourteenth Amendments to the United States Constitution, by imposing sanctions upon the treatment of minors under eighteen years of age without parental notification; (9) Whether the challenged sections arbitrarily, capriciously and without rational basis or compelling state interest deprive plaintiff Ladies Center, Nebraska, Inc. of its rights to provide facilities and support staff to plaintiff Epp for the furnishing by him of services to women in the area of family planning, pregnancy tests, birth control, termination of pregnancy through abortion and related gynecological services; (10) Whether the challenged sections deprive minor women

under eighteen years of age of equal protection of the laws by treating similarly situated classes of pregnant women differently and discriminatorily with no compelling state interest or justification for such classification.

FACTUAL ALLEGATIONS

17. The Nebraska Criminal Code, Sections 28-325 to 28-345, inclusive, became effective and applicable to abortion procedures on January 1, 1979. On March 19, 1979, the Nebraska Legislature passed, and on March 22, 1979, the defendant Charles Thone signed into law, Legislative Bill 316 which amended and appealed certain of the above cited statutes. Particularly, Legislative Bill 316 amended Sections 28-326, 28-327, 28-329 to 28-331, inclusive, 28-333, 28-334, 28-342, 28-343 and 28-345. Legislative Bill 316 further repealed the original sections 28-326, 28-327, 28-329 to 28-331, inclusive, 28-333, 28-334, 28-342, 28-343 and 28-345. Legislative Bill 316 became effective March 22, 1979.

18. The challenged sections constitute the only legislation by the State of Nebraska regulating a surgical procedure.

19. Upon information and belief, defendants will seek plaintiffs' compliance with the provisions of the challenged sections and will cause criminal prosecutions to be instituted against plaintiffs for failure to comply.

20. Compliance with the challenged sections will cause irreparable injury, for which no adequate remedy at law exists, to plaintiffs and their patients, by depriving them of rights guaranteed under the United States Constitution and by precluding access to elective and medically necessary pregnancy termination procedures in Nebraska, which

will increase the physical and emotional risk attendant to the making and effectuation of the choice whether to carry a pregnancy to term or to terminate it by abortion.

21. Plaintiff Epp desires to give complete, safe and proper advice and treatment to his patients regarding the abortion decision. He is prevented from doing so, and restricted in his right to practice medicine consistent with his best independent medical judgment, by the challenged sections which subject him to regulation and criminal prosecution if he performs abortions in violation of any of the provisions of said sections. As a result, plaintiff Epp and members of the class of persons similarly situated are suffering and will continue to suffer irreparable injury for which they have no adequate remedy at law.

22. The challenged sections restrict and deny access to abortion. As a result, Betty Roe and the class of persons similarly situated will be deprived of fundamental constitutional rights and as a result will suffer irreparable injury for which there is no adequate remedy at law.

FIRST CAUSE OF ACTION
(SUBSTANTIVE DUE PROCESS)

23. Plaintiffs incorporate herein by reference as though set forth in full the allegations of Paragraphs 1 through 22.

24. The challenged sections deprive plaintiffs and the patients of plaintiff Epp of the following liberties without due process of law, in violation of the Fourteenth Amendment to the United States Constitution:

A. The right of women to fully and freely make and effectuate the decision to terminate their pregnancy, a

fundamental right of privacy guaranteed by the First, Fourth, Fifth, Ninth and Fourteenth Amendments to the United States Constitution.

B. The right of a physician to practice medicine in accordance with his or her best medical judgment, a right guaranteed by the First, Fourth, Fifth, Ninth and Fourteenth Amendments to the United States Constitution.

C. The right of a physician to give, and of women to receive, medical treatment and advice, in accordance with accepted medical standards, pertaining to the decision whether to terminate a pregnancy, rights guaranteed by the First, Fourth, Fifth, Ninth and Fourteenth Amendments to the United States Constitution.

D. The rights of the plaintiff Ladies Center, Nebraska, Inc. to provide facilities and support staff to plaintiff Epp for the furnishing by him of services to women in the area of family planning, pregnancy tests, birth control, termination of pregnancy through abortion and related gynecological services, rights guaranteed by the First, Fourth, Fifth and Ninth Amendments to the United States Constitution.

E. The challenged sections are so vague and overbroad that they fail to give reasonable notice to physicians, minors under eighteen years of age or parents of the circumstances under which either parent or guardian notification may be obtained or denied and further fail to give reasonable notice to the plaintiffs of what conduct is proscribed by said sections.

SECOND CAUSE OF ACTION
(EQUAL PROTECTION)

25. Plaintiffs incorporate herein by reference as though set forth in full the allegations of Paragraphs 1 through 24.

26. The challenged sections deprive plaintiffs and the patients of plaintiff Epp of equal protection of the laws

in violation of the Fourteenth Amendment to the United States Constitution, because they unreasonably single out for regulation without a rational basis the abortion procedure, while all other comparable medical procedures are left unregulated.

THIRD CAUSE OF ACTION
(FREE EXERCISE AND ESTABLISHMENT)

27. Plaintiffs incorporate herein by reference as though set forth in full the allegations of Paragraphs 1 through 26.

28. The challenged sections violate the prohibitions of the First Amendment against laws respecting the establishment of religion and interfering with the free exercise thereof for the following reasons:

A. The purpose and effect of the challenged sections is to impede, impair and prevent pregnant women from obtaining abortions.

B. The challenged sections constitute enactment into law of one religious belief concerning abortions and the nature of the fetus and constitute the imposition of that religious view upon women who would not otherwise choose abortion in accordance with their religious or non-religious beliefs.

C. The challenged sections have no secular justification.

D. The enactment of this religious view into law has created and threatened further entanglement of church and state and fosters political divisions along religious lines.

E. The challenged sections discourage, impede and prevent women from obtaining safe, legal abortions in accordance with the different teachings of the religions

to which they adhere and with the dictates of their conscience.

F. The challenged sections force physicians, under threat of criminal penalties, to endorse and communicate to their patients one religious view regarding human life.

RELIEF PRAYED

WHEREFORE, plaintiffs pray that this Court;

A. Assume jurisdiction of this action;

B. Issue a temporary restraining order, preliminary injunction, and a permanent injunction, without bond, enjoining and restraining defendants, their employees, agents and servants from enforcing the challenged sections of the Nebraska Criminal Code;

C. Declare that the challenged sections of the Nebraska Criminal Code are violative of the rights guaranteed to the plaintiffs by the First, Fourth, Fifth, Ninth and Fourteenth Amendments to the United States Constitution and are, therefore, void and of no effect;

D. Award plaintiffs their costs and attorney's fees pursuant to 42 U. S. C. Section 1988; and,

E. Enter such other and further relief as the Court deems appropriate, just and proper.

LADIES CENTER, NEBRASKA, INC., A Corporation; M. John Epp, M.D.; and BETTY ROE, through her next friend, BARBARA GAITHER, Plaintiffs.

BY /s/ Michael T. Levy
of LEVY AND LAZER

13322 Millard Avenue
Omaha, Nebraska 68137

Attorneys for Plaintiffs

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CV79-L-85

WOMENS SERVICES, P.C., a Nebraska Professional Corporation, and G. WILLIAM ORR, M.D.,

Plaintiffs,

vs.

CHARLES THONE, Governor of the State of Nebraska; PAUL L. DOUGLAS, Attorney General for the State of Nebraska; and DONALD L. KNOWLES, County Attorney for the County of Douglas, State of Nebraska,

Defendants.

CV79-L-100

LADIES CENTER, NEBRASKA, INC., a corporation; M. JOHN EPP, M.D.; and BETTY ROE, by her next friend, BARBARA GAITHER,

Plaintiffs,

vs.

CHARLES THONE, Governor of the State of Nebraska; PAUL L. DOUGLAS, Attorney General for the State of Nebraska; and DONALD L. KNOWLES, County Attorney for the County of Douglas, State of Nebraska,

Defendants.

MEMORANDUM AND ORDER
(Filed April 20, 1979)

These are actions challenging the constitutionality of portions of the Nebraska Criminal Code concerning abortion. The 1977 Legislature of the State of Nebraska passed, as Legislative Bill 38, a series of sections, and

the 1979 Legislature amended some of them by Legislative Bill 316. A hearing has been had in both actions simultaneously on motions for a preliminary injunction. Ruling will now be made on these motions, as well as several procedural motions.

PRELIMINARY PROCEDURE MATTERS

Although there has been no motion to consolidate these two actions, my understanding is that counsel agree that they should be consolidated. Accordingly, that will be done. There is a motion to consolidate CV79-L-85 with an action between the same parties regarding L. B. 38, but I think the matters before me presently can more understandingly be handled prior to a consideration of that consolidation.

* * * *

The plaintiff Ladies Center, Nebraska, Inc. in CV79-L-100 requests certification of a class consisting of all organizations which offer and provide facilities and support staff to physicians for the furnishing of services by said physicians to women in the area of termination of pregnancy through abortion. I find that the class is so numerous that joinder of all such organizations is impracticable, that there are questions of law and fact common to the class, the claims of the representative party are typical of the class, the representative party will fairly and adequately represent the interests of the class, the parties opposing the class are acting on grounds generally applicable to the class, thereby making appropriate declaratory and injunctive relief with respect to the class as a whole, and the prosecution of separate actions would

create a risk of inconsistent of varying adjudication with respect to individual members of the class. Accordingly, such a class will be certified.

• • • •

IT HEREBY IS ORDERED:

1. That *Womens Services v. Thone,* CV79-L-85, and *Ladies Center v. Thone,* CV79-L-100, are consolidated;

• • • •

5. That the motion of the plaintiff Ladies Center, Nebraska, filing 10 in CV79-L-100, is granted and a class of plaintiffs consisting of all organizations which offer and provide facilities and support staff to physicians for the furnishing of services by said physicians to women in the area of termination of pregnancy through abortion is hereby certified;

• • • •

Dated April 20, 1979.

BY THE COURT

/s/ Warren K. Urbom
Chief Judge

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CIVIL ACTION NO. 78-L-289

CIVIL ACTION NO. 79-L-85

WOMENS SERVICES, P. C., a Nebraska Professional Corporation, et al.,

Plaintiffs,

vs.

CHARLES THONE, Governor of the State of Nebraska, et al.,

Defendants.

CIVIL ACTION NO. 79-L-100

LADIES CENTER, NEBRASKA, INC., a Corporation, et al.,

Plaintiffs,

vs.

CHARLES THONE, Governor of the State of Nebraska, et al.,

Defendants.

ORDER ON PRETRIAL CONFERENCE

Pretrial conference was held on the 3rd day of August, 1979. Appearing for the parties were: For the plain-

tiffs, Lawrence I. Batt and Michael T. Levy; for the defendants, Jerold V. Fennell, Assistant Attorney General, and Henry L. Wendt, Douglas County Deputy Attorney.

• • • •

B. Uncontroverted Facts:

The parties have agreed that the following facts may be accepted as established facts for the purposes of the instant case only:

• • • •

11. The plaintiff Ladies Center, Nebraska, Inc., is a Florida corporation authorized to do business in the State of Nebraska which offers facilities and support staff to physicians for the performance of family planning, pregnancy tests, birth control, termination of pregnancy through abortion and related gynecological services. The challenged sections subject physicians who perform abortions and facilities which provide supportive services to such physicians to regulation and criminal prosecution should they fail to comply with any of the challenged sections.

• • • •

Dated August 3rd, 1979.

BY THE COURT

/s/ Warren K. Urbom
Chief Judge

APPENDIX D

LINDA KOCH

having been first duly sworn, testified as follows:

Direct Examination
By Mr. Levy

Mr. Levy: By way of introduction, the parties have agreed the following facts are true:

Plaintiff Ladies Center, Nebraska, Inc., is a Florida corporation authorized to do business in the State of Nebraska which offers facilities, support staff and physicians for performance of family planning, pregnancy tests, birth control, termination of pregnancy through abortion and related gynecological services.

By Mr. Levy:

Q. Are you affiliated with plaintiff Ladies Center, Nebraska, Inc.?

A. Yes, I am.

Q. In what capacity or capacities?

A. My official titles are executive director and assistant secretary.

* * * *

Q. How long have you held the positions of assistant secretary and executive director?

A. Since March, 1975 to the present.

* * * *

Q. Miss Koch, I believe my last question was and you have answered that you have held the positions of executive director and assistant secretary since approximately March, 1975?

A. Correct.

Q. Since Ladies Center, Nebraska began to provide the services that I described to you a few minutes ago, has any party, other than yourself served as executive director or assistant secretary?

A. No.

Q. Ladies Center, Nebraska is now located in Omaha is that correct?

A. Yes, it is.

Q. And always has been?

A. Yes.

Q. Your general duties and responsibilities as executive director remained substantially the same since March, 1975?

A. Yes.

Q. Could you generally describe the responsibilities and duties that you perform?

A. My general responsibilities include the overall management of the facility which supplies a staff to physicians, and detailing that, would include implementing and carrying out policy procedures for patients and personnel. I am responsible for the recruitment, orientation, continuing education, periodic evaluation of employees. I supervise all clinical activities. And I do pre-abortion counseling.

Q. Could you generally describe what facilities and support staff are provided by Ladies Center to physicians in the areas I described in my statement?

A. Ladies Center, Nebraska, Incorporated supplies an outpatient surgical facility with support staff to physicians. The support staff includes myself, the director, secretary-receptionist, telephone appointment assistant, lab technicians, counselors, sterilizing room nurse, operating room nurse, preoperative nurse and recovery room nurse.

Q. At present, Miss Koch, the physician who performs pregnancy terminations at your facility is Dr. Epp?

A. Yes.

Q. John Epp from Lincoln?

A. Yes.

Q. Have you in the past provided physicians and support staff to other physicians besides Dr. Epp for the performance of pregnancy terminations and gynecological services?

A. Yes.

Q. Could you give me the number of days per week that pregnancy terminations are performed at Ladies Center?

A. We perform abortions three days a week.

Q. Now are these the same days per week or do the days vary from week to week?

A. The days vary from week to week for three weeks. Each three week period is basically the same schedule.

* * * *

Q. Miss Koch, in connection with your duties since 1975 are you aware of the general routine regarding scheduling of patients—

A. Yes.

Q. —between when they make the initial call for an appointment for termination and are actually scheduled?

A. Yes.

Q. Do you supervise the scheduling or it's done under your control?

A. Yes.

* * * *

Is there any reason why you cannot—I believe the question was: Who filled out the abortion document, the abortion state reporting document?

• • • •

A. It is filled out by a full time clerk, only she is an LPN.

• • • •

CONSTANCE ROWE (Ms. Constance)

having been first duly sworn, testified as follows:

Direct Examination
By Mr. Fennell

Mr. Fennell: The record should reflect that this witness has asked not to have her last name disclosed. I believe she is identified in the pretrial order as Constance Doe or Roe. She is the only witness whose first name is identified in the pretrial order as Constance. I will address her in my examination as Ms. Constance.

The Court: Very well.

• • • •

Q. When did you begin working at Ladies Center, Inc.?

• • • •

A. I think it was July, 1975; maybe June. I don't know the exact date. It was June or July of 1975?

Q. And did Linda Koch hire you?

A. Yes, she did.

Q. And did you meet with Dr. Epp before you began working?

A. Yes.

Q. For how long?

A. I don't remember.

Q. Did Linda Koch explain to you what your duties were to be?

A. We discussed it.

Q. Had you ever done any abortion counseling before you began working at Ladies Center?

• • • •

A. No; not before I started working there.

Q. Did you receive any instructions on what your duties were going to be?

A. I had specific guidelines of what needed to be covered. In regards to filling in the gaps, it was pretty much up to me what we discussed outside those guidelines.

Q. What were those guidelines?

A. Explain the procedure to them, alternatives, contraception. That is all I can think of right now.

Q. Did you also discuss complications?

A. Yes.

Q. In what setting were you performing this work?

A. In a group setting or individual setting.

Q. And what do you describe as a group setting?

A. A group of 5 to 7 patients, plus myself.

Q. And did you also—or have you also performed individual counseling?

A. Yes, I have.

Q. And was that at the request of the patient?

A. Yes.

• • • •

Q. Do you know the time periods patients arrive at the clinic.

A. There are three times during the day they arrive. 8:30, 10 and 11.

Q. The patients that arrive at 8:30 do you see those patients in a group counseling session at 10 o'clock?

A. Generally.

Q. Would there also be patients that arrive at a later session?

A. Yes.

• • • •

Q. The first patients you meet with at 10 o'clock come in at 8:30 in the morning. Is that correct?

A. Generally.

Q. And when do you meet with your next group of patients?

A. When they are finished talking with Linda Koch, the director and they are finished with the lab work.

Q. And you have finished with your first group counseling sessions?

A. Yes.

Q. And how is that group identified? Is there any identity to that group?

A. No.

Q. Would those be the ones that arrived at 10 o'clock?

A. They would have no specific label.

Q. I am not asking you for a label; but would it be those people who arrive at 10 o'clock?

A. Essentially.

Q. And that would be true of the people that arrived at 11 o'clock, the final session?

A. Yes.

Q. If a patient arrived at 8:30 and you do not see them until 10 o'clock, are you aware of what takes place between that time?

A. I know what needs to be done in that interval of time.

• • • •

Q. What needs to be done?

• • • •

A. The patient fills out a chart, sees Linda Koch, does the lab work. After we have them all ready then I get the group and start counseling.

• • • •

The Court: All you are really asking is what Linda Koch has told this witness what Linda Koch does?

Mr. Fennell: Correct.

The Court: She may answer that.

A. A variety of things that she goes over; the consent form, discussion of complications, a medical history; things about the abortion. Essentially that is all I can remember.

Q. Have to your knowledge the patient signed a consent form before they visit with you in your counseling session?

A. Yes, they have.

• • • •

Q. You testified that they sign a consent form before they come to you?

A. Yes.

Q. Do you discuss in your counseling session that consent form?

A. Not the actual consent form, no.

Q. Do you mention or discuss with them, or make any statements regarding their decision to have

an abortion as being final as of that time when you initially start your counseling session?

A. The information I give the patient is in my counseling with them. They have the option to leave at any point in time up until the procedure is being performed.

• • • •

Q. What do you do when you initially start your conversation? When people come in and you introduce yourself, what do you do?

A. When the patients come in I inform them what I will be doing. I identify patients by first names, give information about what alternatives she has.

Q. What alternatives do you mention?

A. If they choose to they could go to full term delivery, abortion, adoption. Essentially that.

Q. Is that in a group setting?

A. Yes, in group setting.

Q. So if one person asked about options, you mentioned them?

A. Yes.

Q. Then what did ycu do?

A. After that I leave the room, review charts, have the nurse prepare medications. And then we go back in.

• • • •

Q. Then what do you do?

A. I go over essentially what will be happening to the patient from the time they are in my counseling session until the time they leave; also discussing complications, following instructions, contraception and then the abortion procedure.

• • •

MILFERD JOHN EPP

having been first duly sworn, testified as follows:

Direct Examination

By Mr. Levy

Q. You have been identified as Dr. John Epp, is that true?

A. That's right.

Q. Doctor, you are one of the plaintiffs in this action?

A. Yes.

Q. Your occupation is that of physician?

A. Yes.

Q. Are you licensed to practice medicine in the State of Nebraska.

A. Yes.

Q. Will you give us the year you obtained your license?

A. February, 1956.

Q. In what area of medicine do you practice?

A. I practice emergency medicine in Lincoln, Nebraska and I do first trimster abortions and office gynecology in Omaha.

Q. Are you board certified or eligible in any specialty?

A. Board certified.

Q. In what specialty?

A. Obstetrics and gynecology.

Q. With respect to your area of practice in performing first trimester abortions and office gynecology, where do you practice?

A. At 120 South 41st in Omaha.

Q. Doctor, the parties have agreed that plaintiff, Ladies Center of Nebraska, Inc., offers facilities and support staff and physicians for the performance of family planning, pregnancy tests, birth control, termination of pregnancies through abortion and related gynecological services.

Are you one of the physicians or the physician presently who provide these facilities and support staff by Ladies Center?

A. Yes, sir.

• • •

Q. Is the staff at Ladies Center subject to your supervision?

A. Yes, it is.

Q. And control?

A. Yes, it is.

• • •

Q. Doctor, what is your connection with Ladies Center, Inc.?

A. I am the medical director.

Q. And are you a salaried employee?

A. No, I am not.

Q. Are you a corporate officer?

A. No, I am not.

• • •

Q. When did you begin your term, if I may use the term "association" at Ladies Center? Would you describe what that association is?

A. I am a physician practicing the type of medicine which was previously described at the Ladies Center. I am the medical director of the Ladies Center. They are an agent which provides me with services of the space, staff and administrative and medical equipment.

They collect monies from patients that I perform services for. That's my relationship.

* * *

Q. Dr. Epp, you do no scheduling at the clinic itself, do you?

A. I do no scheduling.

Q. And in connection with your previous testimony —withdraw that.

The scheduling is all handled by administrative office personnel?

A. That's right.

* * *

Your Honor, the plaintiffs would offer the balance of Defendants' Exhibit No. 2.

* * * *

Mr. Fennell: Your Honor, I object to Plaintiffs' offer of the remainder of Defendants' Exhibit 2; it was not identified in the pretrial list of plaintiffs' exhibits.

* * * *

The Court: The objections are overruled. Exhibit 2 will be received in its entirety.

* * * *

EXHIBIT 2

THE LADIES CENTER, NEBRASKA, INC.

Procedural Manual

The Ladies Center, Nebraska, Inc.

Personnel Policies

Health Team Component

The Ladies Center, Nebraska, Inc. provides facilities and support staff to physicians for the furnishing of

services by them to women in the area of family planning, pregnancy tests, birth control, termination of pregnancy through abortion and related gynecological services. The staff includes qualified, professional nurses, nursing assistants and counselors. The laboratory, located within the facility, employs a licensed technician to perform the laboratory tests required by the physicians.

Inservice Education

A continuing education program is provided by the Ladies Center, Nebraska, Inc. All Staff members are required to attend, and staff members are encouraged to participate in planning and presenting these programs.

Employee Evaluation

Periodic assessment of performance and recommendations for improvement are conducted by or under the supervision of the physicians for all members of the staff.

Employee Accident/Injury

Any injury sustained by an employee on premises is reported to the clinic director and documented. Appropriate emergency care and/or referrals are made by the physician.

Patient Policies

Ineligibility and Referral

Medical eligibility for a first trimester outpatient-abortion is determined by the examining physician based on the medical history and physical findings. A woman who is found to be ineligible for this procedure is provided with appropriate information, counseling and referral. The suction currettage abortion is performed only with the informed consent of the patient. If a patient is determined by the staff or physician, to be psychologically, emotionally or physically unprepared for an outpatient abortion with local anesthesia,

or if a patient manifests strong ambivalence about terminating her pregnancy, the staff or physician refers her to an appropriate health care agency for further counseling.

Laboratory Services

Each patient at The Ladies Center, Nebraska, Inc. receives the following laboratory tests:

Pregnosticon urine test for pregnancy
Hemoglobin
Hematocrit
Serology (VDRL)
Blood group and Rh factor
Gross pathologic tissue examination by physician
Gonococcal Smear

In addition, the following laboratory tests are available and provided to patients on an individual basis when indicated.

Rh Immune Globulin compatibility test and Du detection test if patient is Rh negative

Pap Smear

Microscopic pathologic tissue examination when deemed necessary, by licensed pathologist

Visitors

The Ladies Center, Nebraska, Inc. encourages family members and/or friends to accompany patients to and from the facility. While visitors are not permitted in patient care areas, counseling is provided when requested or needed, and all visitors are kept informed of the patient's progress during her stay at the facility.

Medical Records

The Ladies Center, Nebraska, Inc. maintains a complete record for each patient admitted to the facility. These records are privileged and confidential, and may not be released without written consent of the patient.

In addition, no information about a patient is given by telephone. Employee records are also confidential.

Length of Stay

Each patient remains in the recovery room area until the physician discharges her. If a patient insists on leaving the facility prior to her medical discharge, she must sign a release form.

Secretary/Receptionist

DEPARTMENT

Administration

RESPONSIBLE TO

Physicians/Clinic Director

JOB SUMMARY

Since the receptionist is the first staff member to meet the patient and her visitor(s), she influences the patient's initial impression of the clinic. Therefore, she should be able to communicate effectively, and sensitively with patients.

FUNCTIONS

1. Greets the patient and her visitor(s) and determines the nature of the visit; e. g., scheduled for termination of pregnancy, diagnostic pregnancy testing, post-operative examination, etc.
2. Assists each patient with the admission procedure, i. e., patient chart and forms.
3. Informs the patient's visitors of the patient's progress during her clinic stay.
4. Handles all incoming and outgoing telephone calls, and contacts staff members within the clinic as necessary.

5. Maintains a daily register of patients.
6. Performs other functions as assigned.

QUALIFICATIONS

1. Ability to assist with the patient flow and refer patients and visitors to appropriate staff members as indicated.
2. Ability to communicate effectively.
3. Ability to work under pressure and remain pleasant and efficient.

Telephone Appointment Assistant

DEPARTMENT

Administration

RESPONSIBLE TO

Physicians/Clinic Director

JOB SUMMARY

The Appointment Assistant schedules clinic appointments by telephone, and records the pertinent information on an appointment book. Tactfulness and calm, courteous approach is essential in order to make the patient feel as comfortable as possible.

FUNCTIONS

1. Answers the telephone when a person calls The Ladies Center Nebraska, Inc. to schedule an appointment and provides supportive counseling.
2. Screens for eligibility.
3. Provides specific instructions for the patient.
4. Discusses the clinic fee and makes arrangement for payment (after discussion with clinic director).
5. Records all pertinent information on an appointment book.

QUALIFICATIONS

1. Must be able to communicate effectively by telephone.
2. Must demonstrate sensitivity to women's attitudes and feelings toward abortion.
3. Training and orientation is provided on-the-job.

Operating Room Nurse

DEPARTMENT

Nursing

RESPONSIBLE TO

Physicians/Nursing Supervisor

JOB SUMMARY

The Operating Room Nurse provides emotional support to the patient during the abortion procedure. She assumes responsibility for nursing care in the procedure room, implements aseptic technique when indicated, and assists the physician during the suction curettage procedure.

FUNCTIONS

1. Screens each patient record for pre-operative completion and for significant medical and personal history.
2. Attends the patient throughout the abortion procedure providing emotional support and reassurance.
3. Assists the physician in the role of circulating nurse during the abortion procedure.
4. Takes vital signs and administers IM medications to the patient when necessary.
5. Performs as a member of the health team during an emergency situation.

6. Accompanies the patient to the recovery room when the procedure is completed.
7. Records pertinent nursing information on the patient's chart regarding the abortion procedure, e. g., vital signs, medications, patient reactions.
8. Administers pre-operative medications as ordered by the physician.
9. Between procedures assists in pre-operative work-up.
10. Places fetal tissue in labelled Formalin container.
11. Assists with the inventory of supplies.
12. Cleans equipment and re-stocks procedure room daily.
13. Performs duties in other patient areas as assigned.

QUALIFICATIONS

1. Ability to assess the condition of the post-operative patients.
2. Skill in providing emergency care nursing.
3. Ability to convey emotional support, warmth and understanding.
4. Graduation from an accredited School of Registered Nursing, or Certificate from Medical Assistant School, with current professional license in the state of employment.

Nursing Supervisor/Sterilizing Nurse

DEPARTMENT

Nursing

RESPONSIBLE TO

Physicians/Clinic Director

JOB SUMMARY

The nursing supervisor is responsible for directing the nursing staff in implementing patient care poli-

cies and procedures. She will also be responsible for coordinating the in-house continuing education program working in conjunction with the physician and the Clinic Director.

The Sterilizing nurse is responsible for adequate cleaning and sterilization of all instruments and equipment, and for distributing this equipment to patient care areas.

FUNCTIONS

1. Nursing supervisor and sterilizing nurse positions are synonomous.
2. Collects, washes, wraps, sterilizes, and labels instrument trays, individual instruments, and tubing.
3. Makes sure that sterilizing room (scrub area) is clean and stocked with supplies.
4. Keeps inventory of supplies, and re-orders them through the Clinic Director.
5. Reports any malfunctioning equipment to the physician or Clinic Director for immediate action.
6. Performs related functions as assigned.

QUALIFICATIONS

1. Shall be a registered nurse.
2. Knowledge of sterilization process and techniques of sterilization.
3. Knowledge of proper functioning of equipment.
4. Training is provided on-the-job.

Counselor

DEPARTMENT

Counseling

RESPONSIBLE TO

Physicians/Clinic Director

JOB SUMMARY

The counselor provides emotional support to the patients during a critical period of her clinic stay. She explains the suction curettage abortion procedure, reviews post-operative orders and routine and special instructions, and discusses birth control methods in depth, in a small group setting. She provides an informal discussion period during which the patients can express their feelings and ask questions. She screens patients for special counseling. The emphasis during this counseling session is on informal discussions and informed family planning and a good program of regular health care.

FUNCTIONS

1. Observes patients for physical and/or emotional symptoms during the postoperative counseling session.
2. Gives a detailed explanation of the suction curettage abortion procedure, using visual aids in a small group setting (or individually if indicated); discusses expected feelings and reactions to the procedure, and encourages patients to share feelings and concerns.
3. Reviews postoperative instructions and stresses the importance of follow-up care. Postoperative instructions are written.
4. Helps the patients to select a contraceptive method by discussing the advantages and disadvantages, effectiveness and safety, convenience and cost, of each method. Visual aids are used in contraceptive information and an information sheet is supplied to each patient.
5. Stresses the importance of regular health care (e.g., breast self-examination and pap smear); reviews the menstrual and reproductive cycles.
6. Provides further special counseling when indicated, to individual patients.

7. Checks to see that preoperative medication ordered by the physician has been administered and recorded by a member of the nursing staff.
8. Records unusual patient reactions and responses to preoperative and/or special counseling and makes recommendations to clinic director for additional counseling.
9. Performs other related functions as assigned.

QUALIFICATIONS

1. Sensitivity and awareness of an individual's response in a group setting, with the ability to screen patients who are not candidates for group counseling and/or outpatient suction curettage abortion.
2. Good interpersonal skills, with an ability to give emotional support.
3. Ability to create an atmosphere in which patients can express feelings.
4. Courses and/or experience in family planning, psychology, sociology, counseling and group dynamics, is desirable; knowledge of physical and psychological effects of pregnancy and its termination, as well as familiarity with available methods of contraception, is necessary.

Diagnostic Pregnancy Testing

A woman may come to The Ladies Center, Nebraska, Inc. for a diagnostic pregnancy test. There is no charge for this service and no appointment is necessary.

1. If she telephones The Ladies Center, Nebraska, Inc. in advance, the woman is advised to bring her first morning urine specimen to the clinic. If she does not bring a specimen with her, a fresh specimen is obtained at the clinic.

2. If the pregnancy test is negative, the woman is advised to return to the clinic in two weeks for a repeat pregnancy test if she has had no menses. After the second negative pregnancy test and continued absence of menses, the woman is referred to a physician or seen in the clinic's general gynocology clinic for further evaluation. A woman whose pregnancy test is negative is advised to use an interim birth control method until the pregnancy test results are conclusive.

3. If the pregnancy test is positive, the woman is counseled concerning the options available to her, e.g., continuation of pregnancy, adoption (if applicable), or termination of pregnancy. *No discussion is initiated by the staff members* who give the results of the test, but information is openly given when the patient indicates she wishes this information. If the woman chooses to have an abortion at The Ladies Center, Nebraska, inc. and is eligible for an outpatient suction curettage procedure, an appointment is scheduled.

4. The woman who is ineligible for an outpatient abortion is given referral information on 2nd-trimester abortion facilities.

Appointment Scheduling

Counseling begins as early as the initial telephone call with a prospective patient. The telephone counselor offers emotional support as she discusses options and conveys acceptance of the patient's decision.

Screening for Eligibility

1. LMP (Last Menstrual Period)

2. a. The woman is asked to give the date of the first day of her last menstrual period. She is asked

whether this period was normal, e. g., amount and duration of flow.

b. If the LMP is less than 12 weeks, an appointment can be scheduled.

c. If the LMP is more than 12 weeks, the alternate abortion procedures for advanced gestation are explained, options are discussed, and if the woman desires, a referral is made.

2. Medical History

The woman is questioned for possible contraindications for an outpatient abortion procedure. If there is any doubt about eligibility, the physician is consulted.

Patient Instructions

1. The woman is given a specific appointment time between the hours of 8:30 and 11:00 a.m.
2. The woman is asked to eat breakfast, but no coffee, before her appointment.
3. The woman is asked to bring her first morning urine specimen to the clinic.
4. The woman is asked to bring a sanitary belt and pad.
5. The woman is asked to bring a bathrobe.
6. The woman is advised to take any prescribed medication, no other drugs or alcohol prior to the appointment.
7. The woman is advised to have someone arrange to go with her upon leaving the clinic after the procedure.
8. The woman is advised that she will be in the clinic for approximately four hours.
9. The abortion procedure is explained to her.
10. The woman is advised of the fee for the procedure which includes all laboratory and medication costs.

Admission of Patient

1. The patient is greeted by the receptionist, given a chart, and asked to complete the personal and medical history form.

The receptionist is available to assist the patient with completion of forms, and to explain their purpose.

2. The patient is escorted to the laboratory by the lab technician.

3. The patient is then interviewed by the clinic director. The director checks the medical history and makes recommendations to other staff members for special instructions. The director discusses testing that will be done, and notes intake of medications, medical complications, explains a follow-up examination is necessary and will make referrals if the patient has no physician, etc. This interview may include family members or friends if the patient so desires.

4. All visitors are asked to remain in the waiting room. They are given a form explaining the care which is provided each patient of The Ladies Center, Nebraska, Inc.

5. The director is available to provide additional information to visitors after the patient leaves for the patient care area, if the visitors request such.

Laboratory Tests

The patient is escorted by the lab technician from the waiting room to the patient care area. She is asked to give a urine sample for analysis and then goes to the laboratory where the laboratory technician draws two blood samples.

The following laboratory tests are completed for each Ladies Center patient:

1. *Urinalysis*

   a. Pregnancy test: The urine sample is tested for pregnancy by the Pregnosticon method. If there is any doubt about the validity of the result, a two-hour UCC test is performed, if requested by the physician.

2. *Blood type and Rh factor*

   The blood sample is typed according to the ABO grouping and Rh factor.

   a. Du Test: For each Rh negative patient, a DU test is performed. If the DU is positive, the anti-Rh globulin is not needed by the Rh negative woman.

   b. Anti-Rh Globulin Cross-Match: The blood sample of the Rh negative woman is tested for compatibility with the anti-Rh globulin, a special form of human immune gamma globulin before Gamulin is administered.

3. *Hematocrit*

   This test measures the percentage of red blood cells in the blood.

   Acceptable range: 35-45%.

4. *Hemoglobin*

   This test measures the amount of iron in the red blood cells. The test is correlative to the hematocrit but determined independently; an anemia unrecognized by one test may be recognized by the other.

   Acceptable range: 11-16 Gm.

5. *Serology* (VDRL)

   This test determines current or previous syphilitic infection. The testing is done by the county. If the clinic is advised of positive reactions they are counseled and referred to the VD clinic for further tests.

NOTE: Any abnormal laboratory findings are brought to the attention of the physician. Special counseling is provided as needed.

Rh Factor Counseling

In addition to the common classification of blood types, A, B, AB, and O, blood is also classified according to the presence of the Rh factor. The Rh positive indicates the presence of this factor while Rh negative indicates that the factor is absent.

1. Distribution of the Rh factor

   Approximately 85% of the American population is classified as Rh positive. The remaining 15% is therefore termed Rh negative. There is, however, a racial distribution for this genetic trait; Oriental people are rarely Rh negative, about 5% of the black population is Rh negative, while as many as 20% of the white population, particularly those of Western European extraction, is Rh negative.

2. Pregnancy and the Rh negative Woman

   The Rh factor is important when a woman becomes pregnant, if she is Rh negative and the man is Rh positive. In this instance, it is likely that the fetus will inherit the dominant Rh positive trait. When the woman is Rh negative and the fetus is Rh positive, there is a potential blood incompatibility.

3. Effects of Antibody Formulation

   The problem arises because it is rather common for a small amount of fetal blood to enter the blood stream of the pregnant woman. In effect, this amounts to a small blood transfusion, which usually occurs very late in pregnancy or at the time of delivery, miscarriage or abortion. The amount of antibody formation on initial exposure varies in individ-

ual women. In the sensitized women, with each successive pregnancy, increasing amounts of antibodies are formed. Thus, in the second or third pregnancy, the woman's antibodies begin to destroy the red blood cells of the fetus prior to delivery. The resulting condition (hemolytic disease of the newborn) is very serious. When the condition is severe enough, an exchange transfusion is required to replace the infant's blood. This procedure has risks and is not always effective.

4. Prevention of Antibody Formulation

   A special protein product called Anti-Rh Globulin (a form of immune gamma globulin, Rhogam or Gamulin Rh) has been developed to prevent the development of these antibodies by combining with the Rh antigen received from fetal red blood cells.

Preoperative Counseling

Both individual and group counseling are provided preoperatively. Group counseling is beneficial to some patients because it allows them to share the experience. Individual counseling, however, may be indicated, especially for patients who are unusually upset, fearful, or ambivalent. During both group and individual counseling reassurance and support are provided since this is generally recognized as the most anxious phase of the patient's stay.

The counselor screens each patient's personal and medical history to discover any unusual problems. If a patient has any unusual physical or emotional problems, she is given special counseling on an individual basis.

During the preoperative counseling session, an overview of the patient flow pattern is presented so that the pa-

tient will know what to expect during the remainder of her stay at the clinic. Each patient, or group of patients, then receives a detailed explanation of the suction curettage abortion and the sensations she may experience during the procedure.

For example, the patient is told that when she goes into the operating room, the physician will perform another pelvic examination to reconfirm her pregnancy and to determine the position of her uterus. The nurse will cover the perineum with a sterile drape, the speculum (which may be cold) will be inserted into the vagina and an antiseptic solution will be used to cleanse the area (this may also be cold). Local anesthesia is applied as a paracervical block. Since there are relatively few nerve endings in the cervix, this is usually felt as pressure, not pain. The local anesthesia takes effect within a few minutes and will help to reduce any cramping felt during the procedure. The doctor will dilate the cervix, this is in order to insert the small plastic suction tip into the uterus. The suction tip is then connected to the suction machine, and the doctor gently suctions the lining from the uterus. Finally, (s)he will insert another instrument, a curette, which is used to gently scrape the walls of the uterus to make sure that the uterus is empty.

The patient is told that during the dilating of the cervix the suctioning and curetting, most women experience mild, moderate, or sometimes hard cramping, briefly in the lower abdomen. She is advised to relax as much as possible and to let the operating room nurse and the physician know what she is feeling during the procedure.

5. Administration of Anti-Rh Globulin

For the substance to be fully effective, a woman must receive an injection within 72 hours after the first miscarriage, abortion, or delivery, and following the termination of each subsequent pregnancy. The sooner the injection is given folowing the termination, the less likelihood there is that the woman will develop sensitivity to the fetal red blood cells.

6. Indications

The following conditions must be present for the administration of anti-Rh globulin to be considered beneficial:

a. The woman must be Rh negative.

b. The fetus must be Rh positive. (Since it is impossible to determine the blood type of the fetus, it is assumed that the dominant trait exists.)

c. A cross-match must show that the woman has not already developed significant antibody formation.

7. Recommendations

Some Rh negative women do not develop antibodies, but because there is no method of determination when a pregnancy is terminated during the first trimester, all Rh negative women should receive the anti-Rh globulin.

a. All Rh negative women are advised to receive the anti-Rh globulin to prevent antibody formation after the termination of each pregnancy. A single injection of ¼ cc of Immune Globulin-HypRho-D is given to prevent incompatibility in future pregnancies.

b. Even if no future pregnancies are planned, is it advantageous to avoid the development of these antibodies. If a woman needs a blood transfusion in the future, it is much simpler to find compatible blood if she does not have excessive antibodies in her blood.

8. Effects of Intramuscular Injection

There may be some tenderness or soreness at the site of the injection. Allergic reactions are not expected but could occur. An occasional patient has shown a systemic reaction manifested by a low grade fever, but generally, reactions are confined to the injection site, and are infrequent and mild.

The counselor reviews the printed postoperative instructions which the patient has been given. She explains that, after a suction curettage abortion, the cervix remains dilated for about three weeks; therefore, the patient is instructed not to insert anything into her vagina, because of the possibility of infection. To prevent infection, the patient should not, during the next three weeks, have sexual intercourse. Also, during the same postoperative period, she should not use tampons for vaginal bleeding; she should take showers or sponge baths, but tub baths and swimming are not advised, nor are douches, feminine sprays or baby powder applied to the perineal area. The patient is instructed to wipe herself from front to back, after going to the bathroom, to avoid infection.

The patient is instructed to take her temperature each day for a week, and to call the clinic if it is 100.4 or higher. If she takes aspirin or other medications for cramping, she is instructed to take her temperature before taking the medication since this type of medication lowers the body temperature. The patient is taught to read the thermometer if she is not familiar with this procedure.

The counselor assures the patient that, although the symptom of morning sickness will disappear immediately, she may temporarily continue to experience breast tenderness, breast engorgement and leaking around the nipples, as

well as frequency of urination. She may resume her normal pattern of exercise and diet, but should not take any medications except those prescribed by a physician. It is explained that it is not unusual to feel the need for additional rest and sleep, as the tension and stress of pregnancy disappear. The patient is also informed that her body will be undergoing hormonal changes and that she may expect her emotions to be labile.

The counselor explains that bleeding and cramping vary in individual women; and that immediate postoperative bleeding and/or staining is the result of the suction curettage procedure and not a menstrual period. Postoperative bleeding may be absent, scant or moderate, is sometimes accompanied by clotting and/or lower abdominal cramping and may last for two weeks. The patient is asked to phone the clinic if her bleeding is heavier than the heaviest normal menstrual flow, or if bleeding continues beyond 15 days. She is told that a normal period should begin in four to 10 weeks. The counselor stresses that it is possible to conceive again, as soon as the patient resumes intercourse. Therefore, if she does not desire another pregnancy, she should use a birth control method whenever she has intercourse. The patient is instructed to see a physician in 3 weeks for a postoperative examination and to get a prescription for a reliable birth control method. If she does not have a private physician, she is given an appointment to return to The Ladies Center, Nebraska, Inc. for her follow-up examination.

The counselor reviews contraception, explaining the importance of family planning, and the effectiveness, safety, convenience and cost of available methods.

The birth control pill is generally considered the most effective method of contraception, if taken daily as prescribed. Samples of birth control pills are shown to the patients, and the counselor explains that these preparations contain estrogen and progesterone and are designed to prevent the release of an egg from the ovary. The patient is told about contradictions for using oral contraception, dosage variations, advantages, disadvantages and possible side effects. She is advised to see her physician routinely every six months, to report immediately any special problems which arise, to do a monthly breast self-examination, and to have a pap smear done every six months.

Several intrauterine devices are shown to the patients and the IUD is discussed as another safe method of birth control, perhaps slightly less effective than oral contraceptives. The IUD differs from other methods of birth control in that the woman has little responsibility (except for self-examination) for its effectiveness. The IUD is generally inserted into the uterus by a physician at the time of the patient's menstrual period, because the cervix is more dilated and the device can be inserted more easily. The patient is informed of possibly physical symptoms during insertion of an IUD. It is explained that the first few menstrual periods may be heavier in flow, and that the patient may experience some cramping, spotting or backache between periods for several months. The patient is shown diagrams or actual samples of IUD's available, including those coated with copper. The counselor stresses the importance of seeing the physician every six months for routine follow-ups, and explains that IUDs do need to be replaced periodically.

The diaphragm method of birth control is discussed. The patient is shown a diaphragm, how to use contraceptive cream or jelly in combination with it, and how to insert it into her vagina. She is instructed when to insert it, how long to leave it in place, and the advantages and disadvantages of this method and how to insert additional cream or jelly if intercourse occurs more than once in seven to eight hours.

A less effective method of birth control is the combination of contraceptive foam and the condom. The patient is shown how to use this method, but it is stressed that the foam/condom method is best used as a temporary means of birth control.

A vaginal spermicide method, the rhythm method and the condom method are discussed and illustrated in detail; however, the patient is advised that these methods, as well as coitus interuptus and douching, are not reliable methods of birth control, and not recommended by the clinic.

Patients are given information on voluntary sterilization (for both women and men), a permanent method of contraception.

In addition to open discussion, models and diagrams are used. Actual samples of each method are passed around the group and literature is given to each patient on all methods of birth control discussed. The use of visual aids gives each patient greater knowledge and understanding of all the various methods available to her.

A follow-up information sheet is given to each patient on which is asked that the patient record her impressions of The Ladies Center, Nebraska, Inc. She is asked to suggest

anything not provided by the Ladies Center, Nebraska, Inc. and which she thinks might be helpful to other patients. This form includes follow-up medical questions, the patient is asked to mail back the form in three weeks.

At the conclusion of the counseling session the patients are escorted to the pre-operative room.

Special Counseling

Laboratory Results

The laboratory tests results are made available to the physician prior to the procedure. If any of the findings are abnormal, (s)he evaluates their significance when (s)he performs the physical examination to determine the patient's eligibility for an out-patient abortion. The nurse will assist in the interpretation of these results in order to help the patient understand their significance to her health.

If the laboratory test results indicate an Rh negative factor, the patient is counseled about this finding and the need for Gamulin is stressed. Gamulin is provided at no additional cost. If the patient wishes to receive Gamulin, Gamulin is administered to the patient in the recovery room after the procedure. If the patient refuses Gamulin, she must sign a release form.

If the laboratory findings reveal a positive Serology, the patient is advised to consult her own physician or contact the local VD clinic or Public Health Department in her community.

Referral for Ineligibility

If a patient is determined by the physician and/or counseling/nursing staff to be ineligible for an outpatient suction curettage abortion, for either medical or emotional reasons, the counselor directs her to the clinic director for discussion about alternatives for continuing the pregnancy or terminating the pregnancy in another type of facility, whichever applies. Support and assistance are provided to make the referral as smooth as possible.

Other

Special counseling is also indicated when:

1. A patient expresses strong ambivalence about terminating her pregnancy.
2. A patient seems to have been coerced into terminating her pregnancy, her partner or a family member may be included in the counseling session.
3. A patient reports (or appears to have) a drug addiction problem or psychiatric disorder.
4. A patient reports that her pregnancy is a result of rape or incest.
5. A very young patient appears for an abortion without a parent or legal guardian.
6. A patient has had multiple previous abortions and/or denies the need for a birth control method.

Operating Room/Suction Curettage Procedure

The patient is asked to void and then is escorted to the operating room by the Operating Room Nurse. The Operating Room Nurse introduces herself, and makes the patient as relaxed and as comfortable as possible. During the procedure, the operating room nurse provides emo-

tional support for the patient and assists the physician as necessary.

1. The operating room nurse assists the patient to the procedure table, places her in lithotomy position and the perineal area is cleansed with antiseptic solution. (Betadine is used unless the patient is allergic to iodine preparations in which case Aqueous Zephiran Chloride solution 1:750 is substituted.) The patient is then draped.
2. The physician again reviews the patient's medical history and/or performs another pelvic examination to reconfirm the uterine size and position.
3. The physician scrubs while the nurse prepares the instruments, sterile gloves, lighting, etc.
4. The suction curettage procedure is performed by the physician:
    a. A bi-valve speculum is introduced into the vagina and the cervix and vagina are cleansed with the same antiseptic solution.
    b. The cervix is grasped with a single-tooth tenaculum, and the para-cervical block, with 20 cc xylocaine 1%.
    c. A uterine sound is introduced to determine the depth of the uterus. Careful dilitation of the cervix follows, until the appropriate suction vacurette can easily be introduced into the uterus.
    d. The uterus is suctioned and the physician examines the products of conception. (S)he will explore the uterine walls with a sharp curette to insure that the procedure has been completed. If necessary, the physician will order methergine or pitocin to be administered during or immediately after the procedure.
    e. After the procedure has been completed, the patient is assisted out of lithotomy position and made comfortable. A sanitary pad is applied.

f. The nurse escorts the patient to the recovery room.

g. The operating room nurse places the specimen into a container, Formalin 10% solution.

h. The operating room is prepared for the next patient.

Microscopic Tissue Examination

In some instances, the physician may request that the tissue removed from the uterus during the abortion be sent to the pathology laboratory for microscopic examination.

1. The operating room nurse strains the tissue aspirated from the uterus and places all tissue fragments (without excess blood and amniotic fluid) in a preservative solution (Formalin 10%).

2. At the end of each day, the specimen containers are taken to the lab. Any specimens that the doctor has requested a microscopic report on are sent to the pathologist.

3. The pathology laboratory sends a pathology report on requested specimens to the clinic. Abnormal findings are reviewed by the Medical Director. The patient is notified of any findings which indicate the need for further study by the physician.

4. All pathology reports are filed in the patient's permanent clinic record.

Recovery Room

The responsibility of the recovery room nurse is to monitor the patient's condition during the immediate postoperative period for symptoms of complication. She offers emotional support to the patient and provides an atmosphere that is conducive to group interaction.

1. The recovery room nurse assists the patient to a recovery room and makes her comfortable.
2. The recovery room nurse checks the patient's vital signs every fifteen until stable, and observes the patient's color and bleeding pattern. The physician is notified of any unusual postoperative symptoms. A pad count is kept if bleeding seems excessive.
3. The recovery room nurse under the direction of the physician supplies the patient with a two month supply of pills, if that is the birth control method the patient has chosen. The recovery room nurse again reviews postoperative instructions and birth control methods.
4. The recovery room nurse advises the patient of any special follow-up care recommended by the physician. After a stay of 30-45 minutes in the recovery room the patient is discharged by the physician.
5. If the patient chooses to leave the recovery room against the orders of the physician, the recovery room nurse has the patient sign a form so stating and witnesses this signature of the patient.

Emergency Service

The Ladies Center, Nebraska, Inc. maintains a twenty-four hour physician's answering service and encourages patients to call collect with any questions or problems which occur postoperatively.

Calls received after clinic hours

The answering service records the patient's name and telephone number and notifies the Clinic Director who returns the patient's call immediately.

Calls received during clinic hours

The staff member receiving the telephone call records the date and time of the call, the patient's name and tele-

phone number and the symptoms she describes. She obtains the patient's chart, makes the necessary notations and gives the chart to the physician.

Follow-up

All recorded information is reviewed and any necessary follow-up is directed by the physician.

Follow-up Postoperative Examination

The Ladies Center, Nebraska, Inc. stresses the need for a postoperative physical examination to be performed approximately three weeks after the abortion procedure. Patient may also return to the clinic for routine gynecological examinations on a continuing basis.

1. If the patient returns to The Ladies Center, Nebraska, Inc. for the postoperative examination, there is no additional fee for this service. Postoperative appointments are scheduled on the day of the abortion, or the patient may telephone the clinic for an appointment.
2. On the day of her follow-up examination, the patient is examined by the physician. Birth control methods are reviewed by a nurse or the physician and a contraceptive method is prescribed by the physician.
3. If the patient prefers to see her private physician or a family planning clinic, the appropriate referral letters are sent.